

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1974, SCHEDULE 4. (See end of Document for details)

SCHEDULES

[F¹] SCHEDULE 4

Section 38.

TRANSITIONAL PROVISIONS RELATING TO DEVELOPMENT GAINS

Textual Amendments

- F1** Sch. 4 repealed by Finance Act 1985 (c. 54, SIF 63:1), s. 98(6) and Sch. 27 Part X in relation to disposals of interests in land taking place on or after 19 March Finance Act 1985 (c. 54, SIF 63:1), but without affecting the construction of 1979 (C) Sch. 5 para. 9(5).

- 1 *In this Schedule “the principal section” means section 38 of this Act.*

Replacement of business assets

- 2 (1) *This paragraph shall apply in relation to a disposal of an interest in land to which the principal section applies if the disposal is one in relation to which section 33 of the Finance Act 1965 (replacement of business assets) applies.*
- (2) *Where—*
- (a) *a claim is made by a person under the said section 33 as respects so much of the consideration for the disposal as has been applied by him in acquiring other assets, or an interest in other assets (in this sub-paragraph referred to as “the new assets”) as described in subsection (1) of that section; and*
 - (b) *the acquisition of, or of the interest in, some or all of the new assets took place either before 18th December 1973, or under an unconditional contract for the acquisition entered into before that date, or under a contract to which sub-paragraph (4) below applies,*
- then the amount of any development gain accruing to him in respect of the disposal (as computed before this sub-paragraph is applied) shall be reduced by the amount, if any, by which so much of the consideration for the disposal as has been applied in acquiring before that date, or under such a contract, all or any of the new assets exceeds the sum of the amounts mentioned in the following sub-paragraph.*
- (3) *The amounts referred to in the preceding sub-paragraph are the following, that is to say—*
- (a) *the sum that is by virtue of paragraph 4(1)(a) and (b) of Schedule 6 to the Finance Act 1965 allowable as a deduction from the consideration for the disposal in computing the chargeable gain; and*
 - (b) *the chargeable gain, if any, accruing to him on the disposal (as computed before the preceding sub-paragraph is applied).*
- (4) *This sub-paragraph applies to a contract made after 17th December 1973 if—*
- (a) *the parties thereto had before 18th December 1973 arranged (without entering into a binding contract) to dispose of and acquire the interest*

*Changes to legislation: There are currently no known outstanding effects
 for the Finance Act 1974, SCHEDULE 4. (See end of Document for details)*

in question on terms which do not differ materially from the terms of the contract subsequently made; and

- (b) *the arrangement was made in writing, or is evidenced by a memorandum or note thereof so made before that date.*

Conditional contracts entered into before 18th December 1973

- 3 *If the disposal of an asset under a conditional contract entered into before 18th December 1973 is made for a consideration not depending wholly or mainly on the value of the asset at the time the condition is satisfied, then for the purposes of subsection (1) of the principal section the contract shall in relation to the disposal be treated (on the condition being satisfied) as if it had never been conditional.*

Disposals under arrangements made before 18th December 1973

- 4 *Where an owner of an interest in land to which the principal section applies had before 18th December 1973 arranged (without entering into a binding contract) to dispose of that interest to another person and—*

- (a) *the arrangement was made in writing, or is evidenced by a memorandum or note thereof so made before that date; and*
- (b) *he disposes of the interest to that other person under a contract entered into before 18th December 1974 of which the terms do not differ materially from the terms of the arrangement or, if they so differ, are not more beneficial to the said owner;*

the contract—

- (i) *if not conditional, shall be treated for the purposes of subsection (1) of the principal section as if made before 18th December 1973; or*
- (ii) *if conditional, shall be treated for the purposes of the preceding paragraph as if entered into before that date.*

*Disposal to authority exercising compulsory powers where
 notice to treat was served before 18th December 1973*

- 5 (1) *Where a disposal of an interest in land to which the principal section applies is made to an authority exercising compulsory powers, then, if notice to treat in respect of that interest was (or is by virtue of any enactment deemed to have been) served before 18th December 1973 on the person making the disposal, the disposal shall be treated for the purposes of this Chapter as having been made before that date.*
- (2) *In this paragraph “authority exercising compulsory powers” means, in relation to any disposal of an interest in land, a person acquiring the interest compulsorily or who has been authorised to acquire it compulsorily (whether for himself or some other person).]*

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 1974, SCHEDULE 4.